

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

|                                |   |                                  |
|--------------------------------|---|----------------------------------|
| SHAFIQULLAH KOSHANI,           | ) |                                  |
|                                | ) |                                  |
| Plaintiff,                     | ) | Civil Action No. 3:17-cv-265     |
|                                | ) |                                  |
| v.                             | ) | Judge Thomas W. Phillips         |
|                                | ) |                                  |
| ERIC WAYNE BARTON and VANQUISH | ) | Magistrate Judge H. Bruce Guyton |
| WORLDWIDE L.L.C.,              | ) |                                  |
|                                | ) |                                  |
| Defendants.                    | ) |                                  |

**STATEMENT OF MATERIAL FACTS NOT IN DISPUTE IN SUPPORT OF  
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT ON DEFENDANTS’  
COUNTERCLAIMS**

Plaintiff / Counterclaim Defendant Shafiquallah Koshani hereby submits this Statement of Undisputed Material Facts in support of his Motion for Summary Judgment on the Counterclaims (Doc. 75) asserted by Defendants / Counter-Plaintiffs Eric W. Barton and Vanquish Worldwide L.L.C., which is being filed contemporaneously herewith:

1. During the first year of the NAT Contract, it came to Mr. Barton’s attention that Mr. Koshani was telling the contracting officer that there was a dispute between Mr. Koshani and Mr. Barton over profits and revenues from the NAT Contract. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 135:12-136:6.)

2. In September 2012, Mr. Barton was aware that Mr. Koshani was contacting the contracting officer on the NAT Contract and that Mr. Koshani was claiming to own Vanquish Worldwide, LLC and, according to Mr. Barton, providing the Government with “fraudulent information.” (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 132:13-133:14; 136:7-137:7.)

3. On September 17, 2012, Mr. Barton sent Mr. Koshani an email stating that “I understand you have contacted the contracting officer and other officials in Kabul” and that “I

have been informed that you are claiming to own Vanquish Worldwide LLC, the United States company[.]” (Exh. B.)

4. On October 6, 2012, Mr. Barton sent an email to Major Marian Feist, a U.S. Government employee working on the NAT Contract. Mr. Barton’s email noted that “it seems that there is something holding up our invoices” and stating, *inter alia*, that “it seems that Shafiq Koshani or his legal counsel Tom Rosenstock is already in communications with your office” and that “I see that he has emailed your office that he is somehow in charge of my business, owned and operated 100% by me since June of 2007.” (Exh. C.)

5. On October 26, 2012, Effie Fragogiannis, the Contracting Officer on the NAT Contract, sent Vanquish the email and attachment thereto marked as Exhibit D.

6. Ms. Fragogiannis’ October 26, 2012 letter states that the Government was suspending Vanquish because it had failed—despite repeated requests—to provide a “current operating license issued by the Government of Islamic Republic of Afghanistan (GIROA) AISA office.” (Exh. D; Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 146:1-11.)

7. It was true that Vanquish Worldwide L.L.C. did not have an AISA license and had not provided one to the Government. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 146:12-18.)

8. Ms. Fragogiannis’ October 26, 2012 letter further recounts that she had made several requests of Vanquish “over the last two (2) months and no valid AISA License has been provided in the name of Vanquish Worldwide, LLC.” (Exh. D.)

9. The foregoing statement by Ms. Fragogiannis was also true. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 147:23-148:10.)

10. Ms. Fragogiannis' October 26, 2012 letter further states that, on October 25, 2012, Vanquish had "submitted a Domestic AISA License for a company other than Vanquish Worldwide, LLC." (Exh. D.)

11. It was true that Vanquish had submitted an AISA license for a company with a name other than Vanquish Worldwide, LLC. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 148:11-20.)

12. On October 30, 2012, Vanquish responded to Ms. Fragogiannis' letter and detailed certain actions it was taking in response. (Exh. E.)

13. Also on October 30 and 31, 2012, Mr. Barton and Tiffany Midyett, Vanquish's Vice President, flew to Afghanistan to address the license matter. (Exh. F at KOSH\_00025153 & KOSH\_00025155.)

14. On November 7, 2012, Vanquish sent Ms. Fragogiannis a further response to her October 26, 2012 letter attaching a newly-issued AISA International license. (Exh. G.)

15. On November 8, 2012, Bina Haroon sent Mr. Barton an email, copying Tiffany Midyett, Mr. Koshani, and others, stating that he had received documents from Mr. Koshani showing "that VW is a US-Afghan Partnership company (51% Afghan and 49% US)." (Exh. H at KOSH\_00021553.)

16. On November 13, 2012, Mr. Koshani replied to the email chain that included Mr. Haroon's November 8, 2012 email, copying Ms. Midyett, Mr. Barton and others, stating that he "strongly reject[ed]" Mr. Barton's claim "that VW is a US company" and that "I have send several document to BRCC and to KO and I have several more document which all of them are indicator that Vanquish Worldwide is not a US company I have mentioned on my previous email

that VW is an Afghan & US company 51% Afghan and 49% US.” (Exh. H at KOSH\_00021552.)

17. Later on November 13, 2012, Mr. Barton replied to Mr. Koshani’s email to Mr. Haroon asserting: Mr. Koshani “has interfered with our business and our employees. Shafiq has been encouraged to take legal action in the United States if he believes he has a case. His claims are false and without merit, but they continue to impact my prime contract.” Mr. Barton goes on to allege that Mr. Koshani “has now started two other websites using my logo, my pictures, wording, etc. (we have screenshot the two websites). He has also obtained numerous licenses using my corporate name in different variations.” (Exh. H at KOSH\_00021551.) Mr. Barton concluded by stating “[it] is unbelievable that Shafiq has been able to interfere with my business to the extent he has thus far.” (*Id.* at KOSH\_00021552.)

18. Shortly after sending the above email, Mr. Barton separately forwarded it to Ms. Fragogiannis asking for a conference call and stating “I can not explain to you how this is impacting my employees, and my business. We have been suspended for weeks now.” (Exh. H at KOSH\_00021551.)

19. Mr. Barton admits that the matters to which he was referring in his November 13, 2012 email are the same matters alleged in the Counterclaims. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 150:13-154:9.)

20. On November 18, 2012, Ms. Fragogiannis sent Vanquish a letter acknowledging “receipt of the documentation provided on 30 October 2012 and 7 November 2012 by your company, in response to the Government’s previous requests for a copy of Vanquish Worldwide LLC’s AISA International License” and stating that “[t]he documentation provided addressed

my concern relative to the AISA License.” Ms. Fragogiannis concluded “[a]s such payments are released and the suspension is lifted effective 18 November 2012.” (Exh. I.)

21. Vanquish filed a claim contesting the October 26, 2012 suspension which ultimately became part of an appeal to the Armed Services Board of Contracting Appeals. (Exh. A, Excerpts of 3/28/2018 E. Barton Depo. at 120:13-121:13; Exh. J, Excerpts of 10/31/2018 E. Barton Depo. at 94:8-16.)

22. Vanquish and the U.S. Government settled Vanquish’s claim relating to the October 26, 2012 suspension for the full amount of the claim. (Exh. J, Excerpts of 10/31/2018 E. Barton Depo. at 94:21-25, 95:21-96:2.)

Respectfully submitted,

Dated: January 17, 2019

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